

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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WALTER BECK CORPORATION)  
d/b/a THE RAINBOW INN, )

Plaintiff, )

vs. ) Civil Action  
No. 04-348-ERIE

SAFECO CORPORATION, )  
AMERICAN ECONOMY )  
INSURANCE COMPANY and )  
AMERICAN STATES )  
INSURANCE COMPANY, )

Defendants. )

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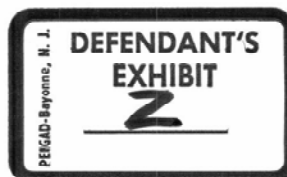
DEPOSITION OF PAUL G. SMITH

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1 P. Smith - by Mr. Victoria

2 all of the business property, I did not.

3 Q. Is this something you did prior to  
4 the filing of the lawsuit?

5 A. Yes.

6 Q. What did you set the reserve to be  
7 for the property damage?

8 A. I don't recall. That should be in  
9 this file somewhere. I mean, that's pretty  
10 customary in any insurance company. That's  
11 something we do very quickly.

12 MR. VICTORIA: If you give me  
13 a few minutes, I'll wrap up pretty quickly. If  
14 you want to take a five or ten-minute break,  
15 I'll flip through this stuff and we'll get  
16 done.

17 (A recess was taken.)

18 MR. VICTORIA: I didn't see a  
19 single note or anything in the electronic file  
20 that was produced to me by Mr. Smith. That  
21 seemed unusual to me, and given his testimony  
22 today, it seems even more unusual.

23 MR. MCDYER: We can go back  
24 and check that.

25 MR. MAYER: Your request

1 P. Smith - by Mr. Victoria

2 was --

3 MR. VICTORIA: I just want to  
4 make sure that we're --

5 MR. MCDYER: Not missing  
6 anything.

7 MR. VICTORIA: Yeah. That's  
8 the kind of stuff that we all want to see.

9 MR. MAYER: Yes.

10 MR. MCDYER: It's one of the  
11 problems when they go paperless.

12 MR. VICTORIA: I've seen that  
13 in the past, too. Because of that, I'm not  
14 going to say the deposition is closed when  
15 we're done today. I mean, if we maybe have to  
16 ask some questions on the telephone or -- I'm  
17 trying to make your life as easy as possible.  
18 If those documents weren't produced, we may  
19 have questions about them. Obviously they are  
20 your notes, so we may have to get into that.  
21 It just seemed odd to me throughout. In fact,  
22 that's why I made the second document request  
23 for them. I thought, well, maybe under new  
24 counsel, it might get re-investigated and turn  
25 something up, and it didn't, so I don't know.

1 P. Smith - by Mr. Victoria

2 MR. MCDYER: I was kind of  
3 operating under the assumption that it had all  
4 been produced to you. I'll have to go back and  
5 rework it.

6 MR. VICTORIA: Thank you.

7 Q. I just want to show you a couple of  
8 things here.

9 (Smith Deposition Exhibit No. 13  
10 was marked for identification.)

11 Q. I put a document in front of you.  
12 It's starts at Bates stamp number 92 and goes  
13 to 102. Generally speaking, do you know where  
14 that document came from?

15 A. It appears to be an electronic file  
16 of underwriting document.

17 Q. You said underwriting document. I  
18 just want to get at how the electronic file is  
19 kept. Is it divided by underwriting and  
20 claims?

21 A. Yes.

22 Q. Because we've been produced what  
23 appear to be all of the underwriting  
24 information from the electronic file. I have a  
25 stack of -- these are just a tiny excerpt of

1  
2 are some Paul Smith electronic files out there,  
3 large loss report, whatever these other things  
4 are we talked about. And we'll be in touch on  
5 whether we need to talk about a Kathy London  
6 deposition or any other witnesses.

7 MR. MAYER: (Nods head.)

8 MR. VICTORIA: I'll talk to  
9 Josh about that, and we'll get back to you. I  
10 don't want to drag anybody here, so maybe what  
11 we need to do is have a chat about what we  
12 intend to talk about and whether you intend to  
13 let her talk to us about it.

14 MR. MAYER: That's fair.

15 MR. VICTORIA: I don't presume  
16 there is going to be any objection to taking a  
17 deposition because we're past the discovery  
18 deadline. I mean, we've been pretty --

19 MR. MCDYER: When I talked to  
20 Josh, he said rather than chase around with the  
21 courthouse, we'll just try and get them done  
22 quickly.

23 MR. VICTORIA: I mean, we  
24 continue to agree with that obviously this is  
25 the first deposition taken in this case. It's

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technically after the discovery deadline.

MR. MCDYER: I have no  
objection.

MR. VICTORIA: I just want to  
make sure that we're not -- we've been playing  
fair on the discovery deadline stuff, and I  
want to continue that way, but if we -- worse  
case, if we need to go and send a motion up to  
the judge, I guess we'll do it.

MR. MAYER: Okay.

MR. MCDYER: I mean, as you go  
through these things, you know, you get some  
ideas that maybe, well, I want to talk to this  
person in underwriting, maybe I want to talk to  
Kathy London, and, of course, I know we've got  
the Beck scheduled. But as we talk to them,  
there may be --

MR. VICTORIA: We understand.

MR. MCDYER: One or two other  
that we want to slip in and try and get over in  
a hurry before we get too far beyond with what  
we've already gotten beyond.

MR. VICTORIA: I understand.

MR. MCDYER: I understood that



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was sort of okay with Josh.

MR. VICTORIA: It is. And I  
wanted to make sure we're still on the same  
page.

MR. MCDYER: Yes. We're not  
holding your feet to the fire on a deadline.

MR. VICTORIA: Well, thanks  
for coming today.

(Signature not waived.)

(Whereupon, the above-entitled  
matter was concluded at 12:29 p.m.)

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